

3 as follows:

4 1. By striking from line one (1) the word "Each" and inserting in
5 lieu thereof the word "The".

6 2. By striking lines three (3) through six (6), inclusive, and insert-
7 ing in lieu thereof the following:

8 "twenty-four (24) of chapter one hundred fourteen (114), Acts of
9 the Sixty-second General Assembly, if overburden is removed. After
10 ascertaining that the applicant".

1 SEC. 4. Chapter one hundred fourteen (114), section twenty-three
2 (23), is hereby amended by striking from line ten (10) the word
3 "each" and inserting in lieu thereof the word "an".

1 SEC. 5. Chapter one hundred fourteen (114), section thirty-two
2 (32), Acts of the Sixty-second General Assembly, is hereby amended
3 by inserting in line four (4) after the word "underground" the words
4 "or surface".

1 SEC. 6. A plan or rules and regulations setting health and safety
2 standards for surface mining within this state shall not be valid or
3 effective until approved by the governor after ascertaining that proper
4 funding for such a program is available and that such a program does
5 not duplicate a program provided by any federal agency.

Approved May 10, 1970.

CHAPTER 1050

WORKMEN'S COMPENSATION

S. F. 1317

AN ACT relating to disabled and retired firemen and policemen.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section eighty-five point one (85.1), subsection four
2 (4), Code 1966, is hereby amended by inserting in line six (6) after
3 the word "town" the words "under the provisions of chapter four hun-
4 dred eleven (411) of the Code".

Approved May 5, 1970.

CHAPTER 1051

WORKMEN'S COMPENSATION

S. F. 1281

AN ACT relating to workmen's compensation.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section eighty-five point one (85.1), Code 1966, is
2 hereby amended by striking subsection two (2) and inserting in lieu

3 thereof the following:

4 "Persons whose employment is purely casual and not for the purpose
5 of the employer's trade or business."

1 SEC. 2. Section eighty-five point three (85.3), Code 1966, is hereby
2 amended as follows:

3 1. Subsection one (1), by striking lines one (1) through three (3),
4 inclusive, and inserting in lieu thereof the following:

5 "Every employer, not specifically excepted by the provisions of this
6 chapter, shall provide, secure, and pay".

7 2. Subsection two (2), by striking line six (6) and lines one (1)
8 and two (2) of paragraph *a*, and inserting in lieu thereof the words
9 "subject to the jurisdiction of the".

10 3. Subsection two (2), paragraph *b*, by striking line one (1) and
11 inserting in lieu thereof the following:

12 "Such employer shall be deemed to have appointed the secretary of
13 state of this".

1 SEC. 3. Sections eighty-five point four (85.4) through eighty-five
2 point fifteen (85.15), inclusive, Code 1966, are hereby repealed.

1 SEC. 4. Section eighty-five point sixteen (85.16), Code 1966, is
2 hereby amended by adding thereto the following new subsection:

3 "By the willful act of a third party directed against the employee
4 for reasons personal to such employee."

1 SEC. 5. Sections eighty-five point seventeen (85.17) and eighty-
2 five point nineteen (85.19), Code 1966, are hereby repealed.

1 SEC. 6. Section eighty-five point twenty (85.20), Code 1966, is
2 hereby amended by striking the semicolon in line seven (7), and by
3 striking lines eight (8) through sixteen (16), inclusive, and inserting
4 in lieu thereof a period.

1 SEC. 7. Section eighty-five point twenty-one (85.21), Code 1966, is
2 hereby repealed.

1 SEC. 8. Section eighty-five point twenty-seven (85.27), Code 1966,
2 is hereby amended by inserting in line twenty-two (22) before the
3 words "and hospital" the word " , nursing,".

1 SEC. 9. Section eighty-five point twenty-eight (85.28), Code 1966,
2 is hereby amended by striking from line four (4) the words "five
3 hundred" and inserting in lieu thereof the words "one thousand".

1 SEC. 10. Section eighty-five point thirty-one (85.31), Code 1966, is
2 hereby amended as follows:

3 1. Subsection one (1), by striking from lines ten (10) and eleven
4 (11), the words "a total of fourteen thousand two hundred fifty dol-
5 lars" and inserting in lieu thereof the words "a weekly benefit amount,
6 rounded to the nearest dollar, equal to forty-six percent of the state
7 average weekly wage paid employees as determined by the Iowa em-
8 ployment security commission under the provisions of section ninety-
9 six point three (96.3) of the Code and in effect at the time of the
10 injury".

11 2. Subsection four (4), by striking from lines nine (9) and ten

12 (10), the words "a total of fourteen thousand two hundred fifty dol-
13 lars" and inserting in lieu thereof the words "a weekly benefit amount,
14 rounded to the nearest dollar, equal to forty-six percent of the state
15 average weekly wage paid employees as determined by the Iowa em-
16 ployment security commission under the provisions of section ninety-
17 six point three (96.3) of the Code and in effect at the time of the
18 injury".

1 SEC. 11. Section eighty-five point thirty-four (85.34), subsection
2 two (2), Code 1966, is hereby amended as follows:

3 1. By inserting in line ten (10) after the word "not" the words
4 "more than a weekly benefit amount, rounded to the nearest dollar,
5 equal to forty-six percent of the state average weekly wage paid em-
6 ployees as determined by the Iowa employment security commission
7 under the provisions of section ninety-six point three (96.3) of the
8 Code and in effect at the time of the injury, provided that no employee
9 shall receive as compensation".

10 2. Paragraph *a*, by striking from line two (2), the words "but not to
11 exceed a" and by striking lines three (3) and four (4) and inserting
12 in lieu thereof a period.

13 3. Paragraph *b*, by striking from line three (3), the words "but not
14 to exceed a" and by striking lines four (4) and five (5) and inserting
15 in lieu thereof a period.

16 4. Paragraph *c*, by striking from line two (2) the words "but not"
17 and by striking lines three (3) and four (4) and inserting in lieu
18 thereof a period.

19 5. Paragraph *d*, by striking from line two (2) the words "but not
20 to" and by striking lines three (3) and four (4), and inserting in lieu
21 thereof a period.

22 6. Paragraph *e*, by striking from line three (3) the words "but not
23 to exceed a total" and by striking line four (4) and inserting in lieu
24 thereof a period.

25 7. Paragraph *h*, by striking from line two (2) the words "but not
26 to exceed" and by striking line three (3) and inserting in lieu thereof
27 a period.

28 8. Paragraph *i*, by striking from line three (3) the words "but not
29 to exceed a total of seven" and by striking line four (4) and inserting
30 in lieu thereof a period.

31 9. Paragraph *l*, by striking lines three (3) and four (4) and insert-
32 ing in lieu thereof a period.

33 10. Paragraph *m*, by striking lines six (6) and seven (7) and in-
34 serting in lieu thereof a period.

35 11. Paragraph *n*, by striking from line two (2) the words "but not"
36 and by striking lines three (3) and four (4) and inserting in lieu
37 thereof a period.

38 12. Paragraph *o*, by striking from line five (5) the words "but not
39 to exceed" and by striking line six (6) and inserting in lieu thereof a
40 period.

41 13. Paragraph *p*, by striking lines three (3) and four (4) and in-
42 serting in lieu thereof a period.

43 14. Paragraph *q*, by striking from line three (3) the words "but
44 not" and by striking lines four (4) and five (5) and inserting in lieu
45 thereof a period.

46 15. Paragraph *r*, by striking from line two (2) the words "but not
47 to" and by striking lines three (3) through eight (8), inclusive, and
48 inserting in lieu thereof the following:

49 " , and for the loss of hearing in both ears, weekly compensation
50 during one hundred seventy-five weeks."

51 16. Paragraph *s*, by striking from line five (5) the words "but not
52 to exceed a" and by striking lines six (6) and seven (7) and insert-
53 ing in lieu thereof a period.

54 17. Paragraph *t*, by striking from line eight (8) the word "and"
55 and by striking lines nine (9) and ten (10) and inserting in lieu
56 thereof a period.

57 18. Paragraph *u*, by striking from line seven (7) the words " , but
58 not to" and by striking lines eight (8) through ten (10), inclusive,
59 and inserting in lieu thereof a period.

1 SEC. 12. Section eighty-five point thirty-four (85.34), subsection
2 three (3), Code 1966, is hereby amended as follows:

3 1. By inserting in line five (5) after the word "not" the words
4 "more than a weekly benefit amount, rounded to the nearest dollar,
5 equal to forty-six percent of the state average weekly wage paid
6 employees as determined by the Iowa employment security commis-
7 sion under the provisions of section ninety-six point three (96.3) of
8 the Code and in effect at the time of the injury provided that no
9 employee shall receive as compensation".

10 2. By striking from line thirteen (13) the words " , but in no event"
11 and by striking all of lines fourteen (14) through sixteen (16), in-
12 clusive, and inserting in lieu thereof a period.

1 SEC. 13. Section eighty-five point thirty-seven (85.37), Code 1966,
2 is hereby amended by striking lines seven (7) through nineteen (19),
3 inclusive, and inserting in lieu thereof the following:

4 "such healing period shall be upon the basis provided herein. The
5 weekly benefit amount payable to any employee for any one week shall
6 be, but shall not exceed an amount, rounded to the nearest dollar,
7 equal to fifty percent of the state average weekly wage paid employees
8 as determined by the Iowa employment security commission under
9 the provisions of section ninety-six point three (96.3), subsection
10 four (4) of the Code, and in effect at the time of the injury. Total
11 weekly compensation for any employee".

1 SEC. 14. Section eighty-five point forty-five (85.45), Code 1966, as
2 amended by chapter four hundred (400), section twelve (12), Acts of
3 the Sixty-second General Assembly, is hereby further amended as
4 follows:

5 1. By striking subsection two (2) of such section and renumbering
6 as required.

7 2. Subsection three (3), by striking from line two (2), the word
8 "court" and inserting in lieu thereof the words "industrial commis-
9 sioner".

1 SEC. 15. Section eighty-five point forty-six (85.46), Code 1966, as
2 amended by chapter four hundred (400), section thirteen (13), Acts
3 of the Sixty-second General Assembly, is hereby repealed and the fol-
4 lowing enacted in lieu thereof:

5 "A written petition for commutation may be made to the industrial
6 commissioner. Notice of the filing or presentation of such petition
7 shall be served upon the opposite party or parties as provided in sec-
8 tion eighty-six point thirty-six (86.36) of the Code."

1 SEC. 16. Section eighty-five point forty-seven (85.47), Code 1966,
2 is hereby amended by striking from line two (2) the word "court"
3 and inserting in lieu thereof the words "industrial commissioner".

1 SEC. 17. Section eighty-five point forty-eight (85.48), Code 1966,
2 is hereby amended by striking from line two (2) the word "court"
3 and inserting in lieu thereof the words "industrial commissioner".

1 SEC. 18. Section eighty-five point sixty-one (85.61), Code 1966,
2 is amended by striking paragraph *b* of subsection five (5), and relet-
3 tering the remaining paragraphs.

1 SEC. 19. Section eighty-six point one (86.1), Code 1966, is hereby
2 amended by adding thereto the following:

3 "Any such appointee must be a lawyer admitted to practice in this
4 state."

1 SEC. 20. Section eighty-six point two (86.2), Code 1966, is hereby
2 amended by inserting before the period in line five (5) the following:

3 ", and all such deputies must be lawyers admitted to practice in
4 this state".

1 SEC. 21. Section eighty-six point twenty (86.20), Code 1966, is
2 hereby amended by striking from lines eight (8) and nine (9) the
3 words "the rate of not to exceed ten cents for each one hundred words"
4 and inserting in lieu thereof the words "a reasonable rate to be deter-
5 mined by the commissioner".

1 SEC. 22. Section eighty-six point twenty-six (86.26), Code 1966, is
2 hereby amended by striking from line seven (7) the words "injury
3 occurred" and inserting in lieu thereof the words "hearing under sec-
4 tion eighty-six point seventeen (86.17) of the Code was held".

1 SEC. 23. Section eighty-six point thirty-three (86.33), Code 1966,
2 is hereby amended by striking lines four (4) through seven (7),
3 inclusive, and inserting in lieu thereof the word "court."

1 SEC. 24. Section eighty-seven point one (87.1), Code 1966, is
2 hereby amended as follows:

3 1. By striking from line nine (9) the word "insurance" and in-
4 serting in lieu thereof the word "industrial".

5 2. By striking from line fourteen (14) the words ", and in the",
6 and by striking lines fifteen (15) through eighteen (18), inclusive,
7 and inserting in lieu thereof a period.

1 SEC. 25. Section eighty-seven point twenty-one (87.21), Code 1966,
2 is hereby repealed and the following enacted in lieu thereof:

3 "Any employer, except an employer exempt as provided in section
4 eighty-five point one (85.1) of the Code, who has failed to insure
5 the employer's liability in one of the ways provided in this chapter,
6 unless relieved from carrying such insurance as provided in section
7 eighty-seven point eleven (87.11) of the Code, shall be liable to an

8 employee for a personal injury in the course of and arising out of
 9 such employment, and the employee may enforce such liability by an
 10 action at law for damages, or may collect compensation as provided
 11 in chapters eighty-five (85) and eighty-six (86) of the Code. In
 12 actions by the employee for damages under the terms of this section,
 13 the following rules shall apply:

14 1. It shall be presumed:

15 a. That the injury to the employee was the direct result and growing
 16 out of the negligence of the employer.

17 b. That such negligence was the proximate cause of the injury.

18 2. The burden of proof shall rest upon the employer to rebut the
 19 presumption of negligence, and the employer shall not be permitted
 20 to plead or rely upon any defense of the common law, including the
 21 defenses of contributory negligence, assumption of risk and the
 22 fellow servant rule."

1 SEC. 26. Sections eighty-seven point twenty-two (87.22) and
 2 eighty-seven point twenty-three (87.23), Code 1966, are hereby re-
 3 pealed.

1 SEC. 27. Section eighty-seven point twenty-four (87.24), Code
 2 1966, is hereby amended as follows:

3 1. By striking from line four (4) the words and figures "sections
 4 87.21, 87.22, and 87.23" and inserting in lieu thereof the words and
 5 figures "section eighty-seven point twenty-one (87.21) of the Code
 6 as reenacted by this Act".

7 2. By striking from line seventeen (17) the words and figures
 8 "sections 87.21, 87.22 and 87.23" and inserting in lieu thereof the
 9 words and figures "section eighty-seven point twenty-one (87.21) of
 10 the Code as reenacted by this Act".

1 SEC. 28. Section eighty-seven point twenty-six (87.26), Code 1966,
 2 is hereby amended by striking from lines fifteen (15) and sixteen
 3 (16) the words and figures "sections 87.21, 87.22, and 87.23" and in-
 4 serting in lieu thereof the words and figures "section eighty-seven
 5 point twenty-one (87.21) of the Code as reenacted by this Act".

1 SEC. 29. Chapter eighty-five (85), Code 1966, is hereby amended
 2 by adding the following new section:

3 "An employee who has sustained an injury resulting in permanent
 4 partial or permanent total disability, for which compensation is pay-
 5 able under this chapter, and who cannot return to gainful employment
 6 because of such disability, shall upon application to and approval by
 7 the industrial commissioner be entitled to a twenty dollar weekly
 8 payment from the employer in addition to any other benefit payments,
 9 during each full week in which he is actively participating in a voca-
 10 tional rehabilitation program recognized by the state board for voca-
 11 tional education. The industrial commissioner's approval of such ap-
 12 plication for payment may be given only after a careful evaluation of
 13 available facts, and after consultation with the employer or the em-
 14 ployer's representative. An appeal of the decision of the industrial
 15 commissioner may be taken to the district court as prescribed in
 16 section eighty-six point twenty-six (86.26) of the Code. Such addi-
 17 tional benefit payment shall be paid for a period not to exceed thirteen

18 consecutive weeks except that the industrial commissioner may extend
 19 the period of payment not to exceed an additional thirteen weeks if
 20 the circumstances indicate that a continuation of training will in fact
 21 accomplish rehabilitation.”

Approved April 6, 1970.

CHAPTER 1052

INDUSTRIAL COMMISSIONER

S. F. 83

AN ACT relating to the duties of the industrial commissioner.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section eighty-six point eight (86.8), Code 1966, is
 2 hereby amended as follows:
 3 1. By striking subsection three (3) and inserting in lieu thereof
 4 the following:
 5 “3. To prepare and publish statistical reports and analyses regard-
 6 ing the cost, occurrence and sources of employment injuries.”
 7 2. By adding thereto the following new subsection:
 8 “6. To provide a seal for the authentication of orders and records
 9 and for such other purposes as required.”

Approved April 13, 1970.

CHAPTER 1053

WORKMEN'S COMPENSATION DEPOSITIONS

S. F. 82

AN ACT to authorize the industrial commissioner to order the taking of depositions
 in workmen's compensation cases.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section eighty-six point twenty-one (86.21), Code
 2 1966, is hereby amended as follows:
 3 1. By striking lines six (6) through twelve (12) inclusive.
 4 2. By striking from line twenty-two (22) the words “clerk of the
 5 district court of the county”.
 6 3. By striking line twenty-three (23) and inserting in lieu thereof
 7 the words “industrial commissioner”.

Approved April 13, 1970.